



Agenda Date: 7/9/03

Agenda Item: IV C

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR
AN ORDER AUTHORIZING TRANSBEAM,
INC. TO PROVIDE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES
THROUGHOUT NEW JERSEY

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ORDER OF APPROVAL

DOCKET NO. TE00050309

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter, dated May 17, 200, Transbeam, Inc. (Petitioner or Transbeam) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange telecommunications services throughout the State of New Jersey. In addition, Transbeam responded to a Staff questionnaire by letter dated June 13, 2002, and Staff interrogatories by letters, dated July 26, 2002, August 19, 2002, and March 19, 2003.

According to the petition, Petitioner was incorporated under the laws of the State of Delaware as Media Log, Inc. on March 4, 1993 and amended its Certificate of Incorporation to change its name to Transbeam, Inc. on March 29, 2000. (July 26, 2002 letter.) Petitioner's principal offices are located at 325 Fifth Avenue, 4th Floor, New York, NY 10016. (Petition at 2)

Petitioner submitted copies of its Articles of Incorporation, Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. (Petition at 3, Exhibit A, August 19, 2002 letter.) According to the petition, Transbeam was formed to provide local exchange services. (Petition at 1) Petitioner advised that its is currently authorized to provide facilities based local exchange service in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia. Transbeam advised that it has not been denied authority to provide telecommunications services in any state and that it currently has a resale interconnection agreement with Verizon New Jersey.

In its petition, Petitioner advised that it seeks authority to provide local exchange telecommunications services to business and high-capacity residential customers throughout New Jersey. Transbeam intends to provide service that will include, but not be limited to, basic

exchange service and high-speed data services. Transbeam intends to provide services using its own facilities and facilities purchased from others. (Petition at 5)

Petitioner requested a waiver of N.J.S.A. 48:3-7 and N.J.A.C. 14:1-4.3 and 14:10-1.16 which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested, in the interest of efficiency and to prevent undue burden, permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). (Petition at 8) Petitioner also requested permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in New York, New York. (July 20, 2002 letter.) Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records. (July 20, 2002 letter.)

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserted that approval of this petition would provide New Jersey customers with access to new technologies and service choices and permit customers to achieve increased efficiencies and cost savings. (Petition at 7)

With regards to its technical and managerial qualifications, Transbeam stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. (Petition at 5) Petitioner submitted the professional biographies of its key personnel who, according to Transbeam, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry. (Petition at 5, Exhibit B.)

Petitioner has submitted, as evidence of its financial qualifications, financial statements for tax year 2002. (March 19, 2003 letter.) Petitioner will be required to provide two years pro forma income statements and balance sheets for its New Jersey operations only, prior to approval of its tariff.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed the Transbeam petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange telecommunications services in New Jersey, subject to approval of its tariff and the submission of pro forma financial statements for its New Jersey operations. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

Regarding the Petitioner's request for waives of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 7/9/03

BOARD OF PUBLIC UTILITIES
BY:

(signed)
JEANNE M. FOX
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

(signed)
CONNIE O. HUGHES
COMMISSIONER

(signed)
JACK ALTER
COMMISSIONER

ATTEST:

(signed)
KRISTI IZZO
SECRETARY